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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,621	04/22/2004	Aaron E. Yocum	YOCUM-1	5837
32132 7590 01/29/2009 LAMORTE & ASSOCIATES P.C. P.O. BOX 434 YARDLEY, PA 19067			EXAMINER DONNELLY, JEROME W	
			ART UNIT 3764	PAPER NUMBER
			MAIL DATE 01/29/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/828,621

Applicant(s)

YOCUM, AARON E.

Examiner

Jerome W. Donnelly

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/01/08.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 5-7 9/10/12-14 is/are pending in the application.
- 4a) Of the above claim(s) 1-3 5-7 9/10/12 and 17-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1-3 5-7 9/10/12 and 17-19 is/are allowed.
- 6) ☒ Claim(s) 1-3 5-7 9/10/12 and 17-19 is/are rejected.
- 7) ☐ Claim(s) 13-16 is/are objected to.
- 8) ☐ Claim(s) 13-16 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1. ☐ Certified copies of the priority documents have been received.
 - 2. ☐ Certified copies of the priority documents have been received in Application No. .
 - 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

JEROME DONNELLY
PRIMARY EXAMINER

JEROME DONNELLY
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other:

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Claims 1, 2, 3, 5, 7, 9, 10, 12, 17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Savoie.

Savoie discloses a device comprising a framework having a plurality of vertical rails (see fig. 2), connectors in the form of slots (30) and a slack fabric.

Applicant is reminded that a striking board is not positively being claimed.

In regard to claims 1, 2, 3, 5 and 7 Savoie discloses a device wherein at least two striking planes are not parallel and have front and back surfaces having slots (30).

In regard to claim 9 note fig. 3.

In regard to claim 10, the predetermined length of the striking targets has not been determined.

In regard to claim 12 and as broadly claimed hook (132) may be considered as connectors in the form of hooks disposable along said vertical rails for joining targets/shelving/boards or catch plates to said rails.

In regard to claim 17, as broadly claimed an addition of a shelf on a bottom edge of the device would meet the claim language of a catch plate. This addition being obvious for the purpose of adding additional shelving for storage.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 7, 9, 10, 12 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Savoie.

Savoie discloses the device of claims 7, 8 and 10 substantially as claimed absent the device including a plurality of striking targets board members.

Savoie however does disclose his device as including a means, elements (134) for supporting targets, board members/shelving.

The examiner notes that absent any claimed material of which said targets are made of, a target is capable of separating into piece if a strong enough blow is applied.

Wood shelving for example is capable of a separating into pieces.

In regard to claim 10, the predetermined length of the striking targets has not been determined.

In regard to claim 12 and as broadly claimed hooks 132 may be considered as connectors in the form of hooks disposable along said vertical rails for joining shelving targets and boards to said rails.

In regard to claim 18 and as broadly claimed an addition of a shelve means positioned proximate a bottom edge of the device would meet the claims of a rigid catch plate.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Savoie in view of Johnson.

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Savoie discloses a device as claimed in claim 6 absent his connectors being hook and loop fasteners. Johnson does disclose his device including slots hooks and magnets.

Johnson discloses a device including hook and loop fasteners (57) as connection means.

Given the above teachings the examiner notes that it would have been obvious to substitute any and/or all of the present fastening means of Savoie with hook and loop fastening means as an obvious know substitute for hanging elements in the art.

In response to applicant remarks directed to the examiners reasons for requiring an election between the apparatus and method of the device the examiner responds as follows:

The applicant has added additional elements to his claims which would require the examiner to broaden his search, by searching areas which would require a user to hang fabric between rails. The feature of hanging fabric was not presented in the original claims. The examiner did not consider this feature.

The restriction requirement is final.

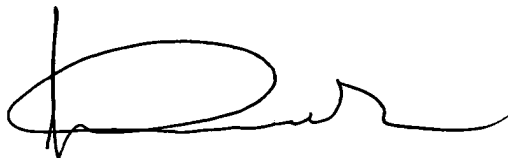
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number (571)272-4975.

Jerome Donnelly

A handwritten signature in black ink, appearing to read 'Jerome Donnelly', with a large, stylized loop at the beginning.

**JERÔME DONNELLY
PRIMARY EXAMINER**